

DOT Pipeline Reauthorization Bill Comparison Chart – 10/3/06

Proposed item	Where we are now	DOT Proposal (H.R. 5678)	House T&I (H.R. 5782 including T&I markup)	House E&C (Amendment in the Nature of a Substitute to H.R. 5782 as reported on 9/27/06)	Senate Commerce (S. 3961)
One call civil enforcement	DOT does not have authority to impose civil penalties against excavators who fail to use one call. It currently has criminal enforcement authority only.	Section 2(a) explicitly authorizes DOT to conduct civil and administrative enforcement proceedings against excavators who fail to use one call.	<p>Included. Amends DOT proposal by prohibiting DOT from conducting enforcement within a State that has equivalent authority and is exercising it.</p> <p>Also broadens the DOT proposal by including among those subject to sanctions, facility operators who fail to respond to a location request or to take reasonable steps to accurately mark the facility.</p>	<p>Included. Prohibits DOT from conducting enforcement in a State that is exercising equivalent authority, unless DOT determines the State’s enforcement is inadequate.</p> <p>Includes failure to call 911 following discovery of an excavation damage incident as an offense subject to civil enforcement.</p> <p>Omits language that subjects operators to sanctions if they fail to reasonably respond to a location request or ensure accurate marking.</p>	<p>Included. Does not prohibit DOT from conducting enforcement in a State that is already exercising its enforcement authority.</p> <p>Includes failure to report damage to emergency authorities, but does not specify “911”</p> <p>Includes among those subject to sanctions, operators who fail to respond to a location request or fail to ensure accurate markings.</p>

State damage prevention programs	States are encouraged, but are not required, to have damage prevention programs. One call grants first became available under TEA-21 (1998). There are no standards for effectiveness for state one call programs. Those states that have effective damage prevention programs have demonstrated substantial reductions in pipeline incidents.	States must be “committed to establishing a program” Section 2(b) establishes a grant program to incentivize states to have a damage prevention program that meets 9 elements for effectiveness, including civil enforcement of all aspects of the excavation process.	Included. States must have “agreed to take actions towards establishing a program” Adopts DOT proposal, but broadens the enforcement element of the 9 criteria to include all aspects of the damage prevention process (meaning the locating and marking process in addition to the excavating process).	Included. States must be “encouraging and promoting the establishment of a program” for purposes of certification. Eligibility for a grant includes a State that either “has” a program or demonstrates “substantial progress” to establish a compliant program. Omits the T&I language broadening the enforcement element to encompass the locating and marking process.	Included. States must have “agreed to promote and take actions to establish a program” for purposes of certification. Eligibility for grant is limited to a State that “has” a program. Omits T&I language broadening the enforcement element to encompass the locating and marking process. Has a maintenance of effort clause that updates expired language.
Cap on state pipeline safety matching funds	DOT pays up to 50% of the cost of a state’s pipeline safety program	Section 2(c) raises the cap to 80%. DOT would implement the increase incrementally at 5% per year.	Included. No change from DOT proposal.	Included. No change from DOT proposal.	Included. No change from DOT proposal.
Damage prevention technology grants	Stakeholders have identified a need for the development of new wireless and global positioning technologies for use in damage prevention.	Subsection 2(d) authorizes an appropriation for DOT to make challenge grants to stimulate these technologies.	Not included	Included. However, no grant may be awarded under this section until DOT establishes competitive procedures for awarding grants under 49 U.S.C. 60130 (technical assistance grants to communities, see below)	Included. Adopts E&C limitation that no grant may be awarded until DOT establishes competitive procedures for awarding technical assistance grants to communities (see below).
Safety orders	2002 safety order statute contained no constraints on when DOT can issue a safety order.	Section 2(e) provides for a hearing process and standards for issuance of a safety order.	Not included	Included. Requires DOT to promulgate procedural regulations within 1 year.	Included. Requires DOT to promulgate procedural regulations before issuing a safety order. Authorizes DOT to waive notice and comment when there is likely harm (same standard as CAO).

Gas pipeline integrity reassessment interval	Interval for reassessing the integrity of gas pipelines is fixed by statute at 7 years regardless of the age or nature of the pipeline system.	Section 2(f) sunsets the 7 year requirement once regulations are issued permitting the establishment of a reassessment interval based on technical and risk factors.	Not included	Not included, but requires DOT to review and comment on the GAO report, and within 60 days recommend to Congress any appropriate legislative changes.	Not included
Integrity program enforcement	DOT does not have explicit authority to use enforcement tools other than ordering amendments of written procedures for inadequate gas integrity management programs.	Section 2(g) contains a technical correction to clarify that DOT may use its full spectrum of enforcement tools for inadequate integrity management programs.	Not included	Included. No change from DOT proposal.	Included. No change from DOT proposal.
Limitation on inflationary adjustments	DOT must periodically adjust its penalty amounts for inflation.	Section 2(h) exempts the pipeline safety penalties from this requirement.	Not included	Not included	Not included
Direct sales lines	The statutory definition of interstate gas pipeline facility does not include direct sales laterals, but there is an absence of regulatory certainty because regulation at the state level has been inconsistent.	Section 2(i) defines gas pipeline facility to include direct sales laterals bringing regulation to the federal level.	Not included	Included. No change from DOT proposal.	Included. No change from DOT proposal.
Permit streamlining	<p><u>New Construction and Expansion of Hazardous Liquid Pipelines</u> – DOT has no authority to coordinate the permitting process for hazardous liquid pipeline construction.</p> <p><u>Pipeline Repairs</u> – DOT may coordinate and serve as ombudsman for repair permitting, but there is no mechanism for using best management practices to satisfy NEPA and ESA requirements allowing expedited review by permitting agencies.</p>	<p>Section 3(a)(1) provides limited authority for DOT to coordinate the permitting process for hazardous liquid pipeline construction if requested to do so by a pipeline operator.</p> <p>Section 3(a)(2) provides a mechanism for using best management practices to satisfy NEPA and ESA requirements allowing expedited review by permitting agencies.</p>	Not included	Not included	<p>Authorizes DOT to coordinate the permitting process for construction and expansion, subject to permitting agencies' approval.</p> <p>Does not include authorization for the use of BMPs to allow expedited review of pipeline repairs by permitting agencies.</p>

International activities	While PHMSA's hazmat division has explicit authority to engage in international activities, the pipeline division does not.	Section 3(b) authorizes DOT to engage in international activities including consultations concerning pipeline standards harmonization.	Not included	Not included	Not included
Emergency waivers	DOT must provide a 30-day notice and comment period prior to issuing any waiver of the pipeline safety standards, including during an emergency.	Section 3(c)(1) removes the 30-day notice and comment requirement for waivers in connection with an emergency.	Not included as introduced, but adopted during T&I markup. Also adds new hearing requirement for non-emergency waivers.	Not included	<p>Included. Raises the standard for non-emergency waivers to "equivalent or greater" level of safety, but reflects current standard ("not inconsistent with" safety) for emergency waivers.</p> <p>Emergency waivers expire in 60 days unless renewed through notice and comment.</p>
Emergency restoration of operations	Dot does not have explicit authority to engage in activities involving the restoration of pipelines that are not directly safety related.	Section 3(c) incorporates the lessons learned from the Gulf Coast hurricanes and modifies the existing restriction on the use of user fees such that restorative activities that may be only indirectly related to safety are expressly authorized.	Not included	Not included	Included. No change from DOT proposal.
Petroleum transportation capacity study	Increased demand, aging infrastructure, pressure reductions and pipeline repairs resulting from liquid IMP inspections, and other reasons have highlighted the need to ensure the transportation of our Nation's energy supply is not interrupted by capacity restrictions.	Section 3(d) authorizes DOT to perform a study, in conjunction with DOE, to identify liquid pipeline transportation capacity restrictions affecting energy supplies. Identifying pipeline transportation capacity restrictions will facilitate future initiatives to address those restrictions.	Not included as introduced, but adopted during T&I markup.	Requires DOE to perform the study, in consultation with DOT. DOE must report to Congress within 1 year.	<p>Included.</p> <p>Also requires DOT to determine whether current safety regulations are sufficient to minimize the potential for unplanned losses.</p>

Cost recovery for design reviews	Due to the recent surge in LNG facility applications received by FERC, there has been a substantial increase in DOT's performance of design reviews. Currently, DOT does not recover these costs directly from the applicant who realizes the benefits from the project.	Section 3(e) authorizes DOT to recover costs directly from the applicant of a proposal for "a pipeline system or liquefied natural gas pipeline facility."	Not included	Included, but authorizes cost recovery only for LNG proposals (omits additional reference to "pipeline system" proposals). Also removes explicit reference to "consulting" and "field work"	Included. No change from DOT proposal. Authorizes recovery of costs associated with a proposal for "a pipeline system or liquefied natural gas pipeline facility"
Authorization of appropriations	Current pipeline authorization expires at the end of fiscal year 2006.	Section §4(a)–(f) reauthorizes the pipeline safety program for 4 years through fiscal year 2010.	As introduced, reauthorizes the pipeline program for 6 years. During markup, committee agreed on 4 years.	Included. No change from DOT proposal. In addition, Sec 4(f) reauthorizes grants to non-profit organizations specifically established for the purpose of reducing construction-related damage to underground facilities.	Reorganizes the authorization of appropriations section into separate paragraphs for general fund appropriations and trust fund appropriations. Specifies exact amounts for research, state grants, one call grants, damage prevention grants, and technology grants.
Synchronization of pipeline and hazmat authorization periods	Current hazmat authorization expires at the end of fiscal year 2008. Therefore, the hazmat and pipeline authorization cycles are not synchronized.	Section 4(g) would add 2 years to the hazmat authorization through 2010. Synchronizing these cycles would further the "One PHMSA" concept.	Not included	Not included	Included. No change from DOT proposal.
Distribution IMP	DOT intends to issue regulations for integrity management of distribution systems, including risk criteria for requiring the installation of excess flow valves, but has not yet issued the rule.	None	Requires DOT to prescribe standards for distribution IMP, including risk criteria for requiring the installation of excess flow valves, within 1 year.	Adopts T&I language to prescribe standards for distribution IMP within 1 year, but omits language requiring excess flow valves.	Adopts T&I proposal. Requires DOT to prescribe standards for distribution IMP, including risk criteria for requiring the installation of excess flow valves, within 1 year.
Pipeline control management/fatigue	DOT is studying the extent to which human factors including controller fatigue contribute to pipeline incidents and intends to address this issue in future rulemakings.	None	Requires DOT to prescribe standards to reduce risks associated with human factors within 18 months.	None	Requires DOT to prescribe standards to reduce risks associated with human factors within 18 months. Standards must include maximum hours of service and work schedules.

Low-stress transmission pipelines	DOT has published a proposed rulemaking for low-stress transmission pipelines in proximity to unusually sensitive areas (USAs).	None	Requires DOT to prescribe standards for low-stress pipelines near USAs within 1 year. Defines a low-stress pipeline.	<p>Requires DOT to prescribe standards for low-stress pipelines within 1 year. No limitation for lines in proximity to USAs (could apply to all low-stress pipelines).</p> <p>Requires that the same standards for other hazardous liquid pipelines apply to low-stress pipelines.</p> <p>Defines a low-stress pipeline.</p> <p>Requires DOT to continue in force current exceptions for low-stress lines subject to Coast Guard regulations or that serve certain terminals when less than 1 mile and not crossing commercial navigation waters, until the low-stress regulations are issued.</p> <p>Provides that this section does not prohibit or affect the applicability of other statutory or regulatory exemptions.</p>	Included. Adopts E&C proposal in its entirety, but where E&C requires DOT to continue in force current exceptions for certain low-stress lines, S. 3961 clarifies that this does not apply to regulations pertaining to incident reporting or mapping.
Implementation of NTSB SCADA recommendations	NTSB made several recommendations concerning SCADA operation, including: (1) use of graphics on SCADA; (2) review and audit of alarms on monitoring equipment; and (3) pipeline controller training.	None	Requires DOT to prescribe standards to implement NTSB recommendations within 18 months.	None	Adopts T&I proposal. Requires DOT to prescribe standards to implement NTSB recommendations within 18 months.
Emergency response grants	DOT's authorization to appropriate emergency response grants of \$6 million per year expires at the end of fiscal year 2006.	Section 4 reauthorizes this appropriation through 2010 at the same level of funding.	During T&I markup, amount was increased to \$10 million per year.	Included. No change from DOT proposal.	Included. No change from DOT proposal.

Incident reporting form	Current incident reporting form does not collect information related to controller shift schedules and hours of service.	None	Adopted during T&I markup. Requires DOT to amend the incident reporting form to collect data related to controller work schedules and fatigue.	None	None
DOT leak detection technology report	DOT integrity management regulations require operators to consider leak detection systems as mitigative measures where warranted by risk analysis.	None	Adopted during T&I markup. Requires DOT to submit to Congress a report on the effectiveness of leak detection technology currently available.	None	Adopted T&I proposal. Requires DOT to submit to Congress a report on the effectiveness of leak detection technology currently available, within 1 year.
Pipeline security inspection and enforcement	The respective roles of DOT and DHS with respect to pipeline security were defined by executing an Annex to an MOU on August 9, 2006.	None	Adopted during T&I markup (prior to Annex). Requires DOT and TSA to enter into an MOU to define and clarify their respective roles regarding pipeline security within 45 days.	None	<p>Requires DHS, in consultation with DOT, to establish a program to review operator compliance with DOT's 2002 "Security Information Circular," within 1 year.</p> <p>Requires DHS and DOT to review security plans and inspect critical facilities of operators covered by the 2002 circular within 9 months.</p> <p>Requires DHS and DOT to transmit to operators security recommendations within 1 year, and if DHS determines that regulations are appropriate, DOT or DHS must promulgate and enforce security regulations, consistent with MOU Annex.</p>
Pipeline security and incident recovery plans					Requires DHS, in consultation with DOT, to develop a pipeline security and incident recovery protocols plan, and submit a report to Congress within 1 year.

Technical assistance grants to communities	Beginning in 2002, \$1 million per year was authorized to be appropriated for grants for technical assistance to local communities to promote public participation in pipeline safety matters affecting the community. DOT did not make any grants under this authority.	None	None	Reauthorizes the appropriations through 2010. Requires DOT to award 3 demonstrations grants of up to \$25,000 to evaluate the utility of the technical assistance grants and requires recipients of technical assistance grants to make findings available to relevant operators.	Adopted E&C language. Reauthorizes the appropriations through 2010. Requires DOT to award 3 demonstrations grants of up to \$25,000 to evaluate the utility of the technical assistance grants and requires recipients of technical assistance grants to make findings available to relevant operators.
Enforcement transparency	While DOT has extensive information concerning its enforcement actions, DOT does not currently post the information in a convenient format that is easily accessed by the public.	None	None	Requires DOT to electronically post monthly summaries of its pipeline enforcement actions within 1 year. Also requires DOT to provide a mechanism for operators to make responsive information available to the public.	Requires DOT to electronically post monthly summaries of its pipeline enforcement actions by October 1, 2007. Omits requirement that DOT provide a mechanism for operators to make info available to the public.
Safety technology and corrosion research and development	DOT is not currently directed by statute to carry out a corrosion research program.	None	None	None	Requires DOT to carry out a corrosion research program to improve methods for managing corrosion and apply the results to support development and improvement of national consensus standards.
Cost recover for extraordinary events	DOT may incur significant costs when investigating a major pipeline accident, which may limit the availability of funds for designated pipeline safety uses.	None	None	None	Authorizes DOT to establish procedures to recover costs incurred in investigating major pipeline incidents from the party responsible for the incident.
Executive signature of IMP performance reports	DOT does not currently require IMP performance reports to be signed by a senior executive.	None	None	None	Requires DOT to establish procedures requiring certification of IMP performance reports by a "senior executive officer."

Inspector staffing	DOT has discretion to maintain an appropriate level of staffing for pipeline inspections and enforcement.	None	None	None	Requires DOT to ensure that the number of positions for pipeline inspection and enforcement personnel do not fall below a minimum number, which increases each fiscal year.
Technical assistance program/industry education	DOT does not currently have a grant program that focuses on workforce training and distribution of safety and technical information to the industry.	None	None	None	Authorizes DOT to award grants to universities to establish a collaborative program to conduct pipeline safety and security technical assistance, focusing on workforce training and distribution of safety and technical information.
Public education and awareness grant for 811	DOT does not currently have a grant program to promote public education and awareness of 811.	None	None	Requires DOT to make a grant to promote public awareness of 811. Authorizes an appropriation of \$1million.	Adopts E&C language requiring DOT to make a grant to promote 811, but omits the authorization of appropriation.
Corrosion control regulations review	While DOT may review and amend its pipeline safety regulations at any time, there is some interest in DOT performing a review of the Part 195 corrosion control regulations.	None	None	Requires DOT to review the adequacy of Part 195 corrosion control regulations and report to Congress within 1 year.	None
Incident Reporting	DOT regulations require gas pipeline incidents be reported when estimated property damage, including cost of gas lost, meets a threshold of \$50,000. As the price of gas increases, smaller releases meet the definition, artificially inflating the number of incidents and making it difficult to use incidents as an indicator of pipeline safety.	None	None	Adopted during E&C markup. Requires DOT to review the gas pipeline incident reporting requirements and modify them, as appropriate, to ensure an accurate reflection of incident trends over time. DOT must complete this mandate within 1 year.	None